

HOUSE BILL NO. 36

INTRODUCED BY K. VAN DYK

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IN THE JUSTIFIABLE USE OF FORCE OR THREAT OF FORCE IN DEFENSE OF AN OCCUPIED STRUCTURE, A PERSON HAS NO DUTY TO RETREAT TO A PLACE OF SAFETY BEFORE USING THAT FORCE OR THREAT OF FORCE; AMENDING SECTION 45-3-103, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-3-103, MCA, is amended to read:

"45-3-103. Use of force in defense of occupied structure. (1) A person is justified in the use of force or threat to use force against another when and to the extent that ~~he~~ the person reasonably believes that ~~such~~ conduct the use of force is necessary to prevent or terminate ~~such~~ the other's unlawful entry into or attack upon an occupied structure. ~~However, he~~

(2) A person justified in the use of force pursuant to subsection (1) is justified in the use of force likely to cause death or serious bodily harm only if:

(1)(a) ~~the entry is made or attempted in a violent, riotous, or tumultuous manner and he~~ the person reasonably believes that ~~such~~ the force is necessary to prevent an assault upon or offer of personal violence to ~~him~~ the person or another then in the occupied structure; or

(2)(b) ~~he~~ the person reasonably believes that ~~such~~ the force is necessary to prevent the commission of a forcible felony in the occupied structure.

(3) A person justified in the use of force or threat of force pursuant to this section has no duty to retreat to a place of safety before using that force or threat of force."

NEW SECTION. Section 2. Applicability. [This act] applies to the use of force or threat of force in the circumstances provided in [section 1] occurring on or after October 1, 2009.

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